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2015 MAY 18 PM 12:45  
IDAHO PUBLIC  
UTILITIES COMMISSION

*Attorneys for Ecoplexus, Inc.*

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF IDAHO POWER ) Case No. IPC-E-15-01**  
**COMPANY’S PETITION TO MODIFY )**  
**TERMS AND CONDITIONS OF ) MOTION TO LATE FILE THE DIRECT**  
**PROSPECTIVE PURPA ENERGY ) PREFILED TESTIMONY OF ERIK A.**  
**SALES AGREEMENTS ) STUEBE**  
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COMES NOW Ecoplexus, Inc., a Delaware corporation (“Ecoplexus”) and files this Motion to Late File the Direct Prefiled Testimony of Erik A. Stuebe in the above matter. As discussed below, Ecoplexus has a direct and substantial interest in these proceedings.

Ecoplexus only recently learned of this open proceeding and its right to provide testimony and participate. Despite having proposed photovoltaic solar generation qualifying facilities in Idaho Power Company’s and PacifiCorp’s d/b/a Rocky Mountain Power’s service territories, Idaho Power never informed Ecoplexus of these proceedings in correspondence it sent to Ecoplexus. Similarly, Rocky Mountain Power’s letter communications in late March and early April stated unequivocally that “[i]n a March 9, 2015, Idaho Public Utilities Commission (“Commission”) bench order in Case No. PAC-E-15-03, the Commission reduced the maximum

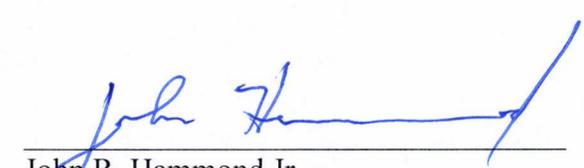
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allowed QF contract term from 20 years to 5 years. On March 13, 2015, Idaho Public Utilities Commission (“Commission”) issued written Order No. 33250 in Case No. PAC-E-15-03 confirming their bench order effective as of March 9, 2015.” Per the actual Commission Order No. 33250, they importantly failed to note that this was “pending further order of the Commission” and “subject to any clarifying order resolving pending petitions to clarify in the Idaho Power case.” Finally, neither utility advised Ecoplexus that they had an opportunity to intervene in this case. The relevant letters are attached to this Motion as **Exhibit A**.

Further, the filing of the Direct Prefiled Testimony of Erik A. Stuebe will not broaden the issues, delay the proceedings or result in prejudice to any party.

WHEREFORE, Ecoplexus respectfully requests that this Commission grant its Motion to Late File the Direct Prefiled Testimony of Erik A. Stuebe. Such testimony has been filed contemporaneously with this Motion.

DATED this 13<sup>th</sup> day of May 2015



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John R. Hammond Jr.  
Attorney for Ecoplexus, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 16<sup>th</sup> day of May, 2015, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by electronic mail, addressed as follows:

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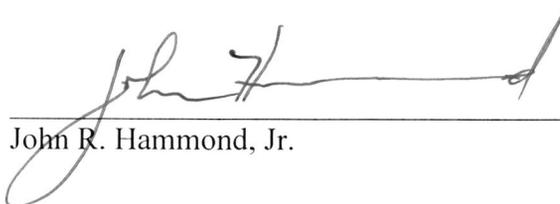
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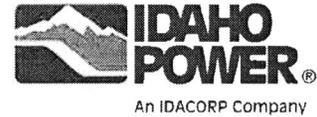
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John R. Hammond, Jr.



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May 8, 2015

**VIA ELECTRONIC AND U.S. MAIL**  
[nrogers@ecoplexus.com](mailto:nrogers@ecoplexus.com)

Nathan Rogers  
Project Development Manager  
Ecoplexus  
650 Townsend Street, Suite 310  
San Francisco, California 94103

Re: Your April 30, 2015, Letters for North Road PV1, Mountain Home PV1, Ada PV1, Meridian Road PV1, Meridian Road PV2, and Mountain Home PV2 Indicative Pricing Letters

Mr. Rogers:

As Idaho Power has previously informed you in writing, any previously provided indicative pricing schedules have been revoked. Avoided cost rates change over time, and Idaho Power Company ("Idaho Power" or "Company") has informed you of such changes that have occurred. Your April 30, 2015, letters request/demand indicative pricing from Idaho Power for a 20-year contractual term. Idaho Public Utilities Commission ("IPUC") Order No. 33222 reduced the maximum contractual term for Public Utility Regulatory Policies Act of 1978 ("PURPA") Qualifying Facility ("QF") contracts to five years.

Your projects currently have no legally enforceable obligation to any previously effective rates, terms, or conditions that may have been in place or are in place now. The factual, as-applied determination of when a PURPA QF establishes the right to a particular avoided cost rate or particular contractual terms and conditions pursuant to a legally enforceable obligation is a determination that lies exclusively with the state authority and the IPUC. *Power Resource Group, Inc., v. Public Utility Commission of Texas*, 73 S.W.3d 354 (Tex.2002); *Power Resource Group, Inc., v. Klein*, No. A-03-CA-762-H, slip op. at 12 (W.D.Tex. Feb. 18, 2004); *Power Resource Group, Inc., v. Public Utility Commission of Texas*, 422 F.3d 231 (5th Cir. 2005) *cert. denied*, 547 U.S. 1020, 126 S.Ct. 1583, 164 L.Ed.2d 301 (Mar. 20, 2006). The Idaho Supreme Court has recently examined and reaffirmed the IPUC's authority and process for establishing a

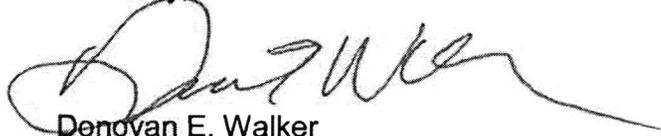
Nathan Rogers  
May 8, 2015  
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legally enforceable obligation as proper and consistent with both state and federal law. *Idaho Power Co., v. Idaho Public Utilities Comm'n.*, 155 Idaho 780, 316 P.3d 1278 ("Grouse Creek").

Schedule 73 describes the only two conditions under which any prices or other terms and conditions will become final and binding on the parties: (1) the prices and other terms contained in an Energy Sales Agreement ("ESA") shall become final and binding upon full execution of such ESA by both parties and approval by the IPUC or (2) the applicable prices that would apply at the time a complaint is filed by a QF with the IPUC shall be final and binding upon approval of such prices by the IPUC and a final, non-appealable determination by the IPUC that (a) a legally enforceable obligation has arisen and, but for the conduct of the Company, there would be a contract and (b) the QF can deliver its electrical output within 365 days of such determination.

Your proposed projects will retain their respective positions in Idaho Power's pricing queue. However, you "qualified" your request for indicative pricing to that for a 20-year contractual term, which is not available for your proposed solar QF projects that exceed 100 kilowatts. If you wish to receive indicative pricing for your proposed projects, for the currently applicable five-year contractual term, please indicate as much in writing within the next ten business days, or no later than May 22, 2015.

Sincerely,

A handwritten signature in black ink, appearing to read "Donovan E. Walker", written over a horizontal line.

Donovan E. Walker

DEW:csb

cc: Randy Allphin, Idaho Power (via e-mail)

April 2, 2015

Jonathan Kay  
 Ecoplexus  
 650 Townsend Street Suite 310  
 San Francisco, CA 94103

Phone: 415-626-1802

*Delivered via email to jkay@ecoplexus.com*

**Re: Idaho Indicative Pricing Request**

Dear Jonathan:

Attached please find the updated indicative qualifying facility (“QF”) pricing for your proposed Idaho solar projects listed below:

Group	QF #	Project Name	Project Size (MW)	Capacity Factor	Commercial Operation Date
●	●	██████████	●	██████	██████████
●	●	██████████ ██████████	●	██████	██████████ ██████████
●	●	██████████ ██████████ ██████████	●	██████	██████████ ██████████ ██████████
●	●	██████████ ██████████ ██████████	●	██████	██████████ ██████████ ██████████

Indicative pricing is provided for each project with similar projects receiving the same prices assuming each project is first in the QF queue. For your nine projects, we grouped them into four “buckets” based on similar characteristics and location as noted above. When any QF executes a contract with the Company, including an Ecoplexus Solar project, we reserve the right to update the pricing for the other projects.

In a March 9, 2015 Idaho Public Utilities Commission (“Commission”) bench order in Case No. PAC-E-15-03, the Commission reduced the maximum allowed QF contract term from 20 years to 5 years. On March 13, 2015 Idaho Public Utilities Commission (“Commission”) issued written Order No. 33250 in Case No. PAC-E-15-03 confirming their bench order effective as of March 9, 2015. Consistent with this order, prices have been provided for 5 years.

In the December 18, 2012 Idaho Public Utilities Commission (“Commission”) Order 32697 in Phase III of Case No. GNR-E-11-03, the Commission directed the Company to provide

indicative avoided cost pricing to wind and solar qualifying facility projects over 100kW based on the Company's IRP methodology.

Therefore, pursuant to the Commission order and consistent with PacifiCorp's procedures to provide indicative pricing for solar projects greater than 100 kW, the Company provides the attached indicative avoided cost pricing. This pricing replaces and supersedes any pricing previously provided.

The indicative pricing that accompanies this letter are merely indicative and are not final and binding. Prices and other terms and conditions are only final and binding to the extent contained in a power purchase agreement executed by both parties and approved by the Commission. The indicative pricing contained herein is based on certain assumptions including, but not limited to, deliverability and the availability of certain transmission services. The assumptions used to determine the avoided cost pricing are subject to change, which in turn may modify the provided indicative avoided cost pricing.

The indicative pricing has been provided for illustrative purposes in annual on peak ("HLH") and off peak ("LLH") values and as annual 7x24 flat (all hours) values. The pricing has also been provided in monthly HLH and LLH values. Should you choose to move forward with a power purchase agreement, the monthly HLH and LLH values will be used in the power purchase agreement.

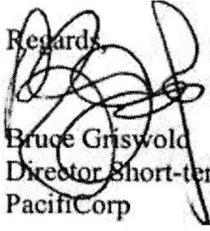
HLH is defined as Monday through Saturday, 7:00 AM MST to 11:00 PM MST, excluding NERC holidays. LLH is defined as all hours that are not on peak.

It is the responsibility of the QF developer to make necessary interconnection arrangements and transmission service arrangements with the transmission provider. The Company's obligation to make purchases from a QF is conditioned upon all necessary interconnection arrangements being consummated. The process of making the interconnection arrangements may result in the identification of additional costs (including, but not limited to, potential improvements to the distribution and/or transmission system) or timing considerations to accomplish necessary interconnection upgrades that are the responsibility of the qualifying facility developer.

Nothing in this letter should be construed as creating a power purchase agreement or other legally enforceable obligation between PacifiCorp and ecoplexus for any of these projects. Nothing in this indicative pricing request response should be construed as an offer on the part of PacifiCorp to enter a power purchase agreement with ecoplexus for any of these projects.

If you have any questions or require additional information, please feel free to contact me at (503) 813-5218.

Regards,



Bruce Griswold  
Director Short-term Origination and QF Contracts  
PacifiCorp

*This communication is preliminary and is intended to serve as a basis for further discussion and negotiations between the parties. This does not contain all matters upon which agreement must be reached in order for a transaction to be completed. The matters set forth herein are not intended to and do not constitute a binding agreement or establish any obligation by any party, and this communication may not be relied upon as the basis for a contract by estoppel or otherwise. A binding agreement will arise only upon the negotiation, execution and delivery of mutually satisfactory definitive agreements and the satisfaction of the conditions set forth therein, including completion of due diligence and the approval of such agreements by the respective governing bodies and management of each party, which approval shall be in the sole subjective discretion of the respective governing bodies and management. Any actions taken by a party in reliance on the non-binding terms expressed herein or on statements made during negotiations of the transactions contemplated hereby shall be at that party's own risk. In addition, our proposed terms are based on current market conditions and PacifiCorp may update our proposed terms/conditions based on changing market conditions until such time as the parties have executed a definitive agreement.*